



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

170 – INTOXICATED / INCAPACITATED PERSONS

GENERAL ORDER: 2014-16
ISSUED: May 2, 2014

EFFECTIVE: May 2, 2014

REVIEWED/APPROVED BY:
Captain Regina Howard
DATE: February 25, 2014

ACTION: Amends General Order 2006-23 (August 22, 2006)

WILEAG STANDARD(S): 6.2.6

170.00 PURPOSE

The purpose of this policy is to provide police members with guidance to properly deal with intoxicated and incapacitated persons consistent with the Alcohol and Intoxicated Treatment Act, Wis. Stat. § 51.45, and afford them the opportunity to “receive a continuum of treatment so they may lead normal lives as productive members of society.”

170.05 DEFINITIONS

A. INTOXICATED PERSON

“A person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.” (Wis. Stat. § 51.45(2)(f)).

B. INCAPACITATED BY ALCOHOL

“That a person, as a result of the use or withdrawal from alcohol, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of making a rational decision, as evidenced objectively by such indicators as extreme physical debilitation, physical harm or threats of harm to himself or herself or to any other person, or to property.” (Wis. Stat. § 51.45(2)(d)).

C. Treatment and services for intoxicated persons and persons incapacitated by alcohol are as follows:

1. “An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. Any law enforcement officer, or designated person, upon the request of a law enforcement officer, may assist a person who appears to be intoxicated in a public place and to be in need of help to his or her home, an approved treatment facility or other health facility, if such person consents to the proffered (offered) help.” (Wis. Stat. § 51.45(11)(a)).
2. “A person who appears to be incapacitated by alcohol shall be placed under protective custody by a law enforcement officer. The law enforcement officer shall either bring such person to an approved public treatment facility for emergency treatment or request a designated person to bring such person to the facility for emergency treatment. If no approved public treatment facility is readily available or if, in the judgment of the law enforcement officer or designated person, the person is

in need of emergency medical treatment, the law enforcement officer or designated person upon the request of the law enforcement officer shall take such person to an emergency medical facility. The law enforcement officer or designated person, in detaining such person or in taking him or her to an approved public treatment facility or emergency medical facility, is holding such person under protective custody and shall make every reasonable effort to protect the person's health and safety. In placing the person under protective custody, the law enforcement officer may search such person for and seize any weapons. Placement under protective custody under this subsection is not an arrest. No entry or other record shall be made to indicate that such person has been arrested or charged with a crime. A person brought to an approved public treatment facility under this paragraph shall be deemed to be under the protective custody of the facility upon arrival." (Wis. Stat. § 51.45(11)(b)).

D. DESIGNATED PERSON

A person who performs, in part, the protective custody functions of a law enforcement officer under sub. (11), operates under an agreement between a county department and an appropriate law enforcement agency under sub. (11), and whose qualifications are established by the county department. (Wis. Stat. § 51.45(2)(cr)).

170.10 GENERAL PROCEDURES (WILEAG 6.2.6)

A. CONVEYANCES

1. Any police member encountering an intoxicated person shall cause such person to be conveyed by police patrol wagon or cage car to an approved treatment facility, if such person consents to the proffered help.
2. Any police member who has probable cause to believe that a person falls within the definition of incapacitated by alcohol shall detain such person and request medical assistance through the dispatcher. Incapacitated persons shall be conveyed to a medical facility by an ambulance or the Milwaukee Fire Department Paramedics if a life-threatening emergency exists.
3. Prisoners confined at a police district station or Central Booking and in need of hospital or medical care due to intoxication or incapacitation by alcohol shall be conveyed by ambulance.

Note: District shift commanders shall make arrangements for security in such cases, in conformity with existing departmental procedures.

4. It is emphasized that persons incapacitated by alcohol shall be detained and then conveyed by ambulance, but persons who are intoxicated may be conveyed by police patrol wagon or cage car depending on circumstances. For example, a person detained for operating while intoxicated, who is considered by a police member to be incapacitated, shall be conveyed as cited in the preceding paragraph. However, a person who is intoxicated may be arrested and taken to the district station on a charge of operating while intoxicated.

Such persons can be given all appropriate tests. If such prisoner subsequently

requires hospital or medical care, the provisions of section 170.10(3) shall be followed.

(WILEAG 6.2.6.2)

B. SEARCH

The detaining police member shall perform a pat-down search of the outer garments of intoxicated persons for and seize any weapons before a conveyance is made. The detaining police member shall search incapacitated persons for and seize any weapons before a conveyance is made by an ambulance or Milwaukee Fire Department Paramedics. Any other evidence of a crime and/or contraband shall be seized, proper reports completed and arrest warrants subsequently sought for appropriate offenses.

C. REQUIRED REPORTS FOR CONVEYANCE OF INTOXICATED PERSONS

1. When an intoxicated person is conveyed to an approved treatment facility, the detaining police member shall complete the *Protective Custody or Transfer of Prisoner for Medical Care* (form PP-42), except the block marked "Police Use Only."
2. The yellow copy of the PP-42 shall be given to the person accepting custody of the detainee. The original and pink copy of the PP-42 shall be submitted to the detaining member's shift commander for transmittal to Open Records.

D. REQUIRED REPORTS FOR CONVEYANCE OF INCAPACITATED PERSONS

1. Upon arrival of the ambulance conveyance, or prior thereto, the detaining police member shall complete a PP-42, except the block titled "Police Use Only" and require the ambulance representative making the conveyance to sign his/her name in the appropriate block.
2. Police members shall relate in detail the subject's physical condition and state of incapacitation in the "explain" section of form PP-42. Do not merely state: "subject unable to care for self." Instead, use descriptive words which detail the person's condition, for example:
 - a. "strong odor of alcoholic beverage"
 - b. "speech slurred"
 - c. "unable to walk without assistance"
 - d. "smells of urine/feces"
 - e. "walking in traffic"
 - f. "laying on the ground/sidewalk"
 - g. "semiconscious" or "unconscious"
 - h. "not oriented to date, time, or location"
3. The detaining police member shall then give the ambulance representative the yellow and pink copies (for the medical facility and ambulance company records, respectively) and shall submit the original to his/her shift commander for review and transmittal to Open Records.

E. WAITING FOR ADMISSION NOT REQUIRED

Police members shall not be required to wait until admission procedures are completed since an intoxicated/incapacitated person brought to an approved public treatment facility is deemed to be under the protective custody of the facility upon arrival. Police conveyances shall not be made from one treatment facility to another or to any other location. Common sense courtesy is dictated prior to departure.

170.15 JUVENILES

These procedures do not apply to juveniles. When it is determined that it is necessary to take a juvenile into immediate protective custody for his/her own welfare because of intoxication or incapacitation by alcohol, the juvenile shall be processed in accordance with Standard Operating Procedure 140.75 Juvenile Procedures.

170.20 GENESIS DETOXIFICATION CENTER

- A. The commanding officer of the Strategic Management Bureau shall serve as the Milwaukee Police Department's liaison to the Genesis Detoxification Center. Any problems or concerns regarding Genesis shall be forwarded through the chain of command to the Strategic Management Bureau.
- B. The Genesis Detoxification Center is located at 2835 N. 32nd Street. [REDACTED]
[REDACTED]
- C. Police members shall give the ward clerk at Genesis the yellow copy of form PP-42. Police members shall not fill out or sign any other forms, even if requested by Genesis staff.
- D. In accordance with Wis. Stat. § 51.45(11)(b), Genesis shall clinically screen all intoxicated or incapacitated persons brought to them by the police. They are deemed to be "under the protective custody of the facility upon arrival." Genesis shall either admit the person to its ward or make arrangements to transport the person home or to some other treatment facility.
- E. Police members shall not transport a suspected intoxicated or incapacitated person to any other location once the person has been conveyed to Genesis. The member's responsibility ends once the person has been conveyed to Genesis. Regardless of its capacity, Genesis has the responsibility of screening all intoxicated and incapacitated persons; therefore, they cannot refuse to accept persons brought to them by the police even when their facilities are at capacity.



EDWARD A. FLYNN
CHIEF OF POLICE